



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Drewlo Holdings Inc. v Cadieux, 2023 ONLTB 15158

Date: 2023-01-12

File Number: LTB-L-035284-22

In the matter of: 909, 710 WONDERLAND RD N
London ON N6H4W1

Between: Drewlo Holdings Inc Landlord

And

Alan Cadieux Tenant

Drewlo Holdings Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Alan Cadieux (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 9, 2023.

Only the Landlord attended the hearing. The Landlord was represented by Candace Aboussafy.

Also in attendance was the Landlord's witness, Jenny Devine.

As of 1:20pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, an order shall issue terminating the tenancy on January 23, 2022.
2. The Tenant was in possession of the rental unit on the date the application was filed and continues to be as of the hearing date.
3. The residential complex is an apartment building where the Tenant occupies a one-bedroom unit. This tenancy is a month-to-month tenancy.

4. The lawful monthly rent increased to \$1,213.64 effective January 1, 2023 and is due on the first of each month.

L2 application

5. The Landlord's L2 application is based on a second N5 notice of termination served to the Tenants pursuant to subsection 68 of the *Residential Tenancies Act, 2006* (the 'Act') on May 19, 2022 with a termination date of June 3, 2022. This notice alleges two incidents of theft from the laundry room by the Tenant in May 2022.
6. In order to serve a second N5 notice of termination, the Landlord must have served a valid first N5 notice of termination – which I find the Landlord did on February 2, 2022 with a termination date of February 22, 2022 pursuant to subsection 64(1) of the Act due to several noise complaints in January 2022 and the dumping of garbage in common spaces.
7. The Landlord's witness, JD, who is the building manager at the residential complex and who is responsible for the building's upkeep, addressing maintenance concerns and filing occurrence reports testified that on January 14, 2022, the Landlord received a noise complaint regarding extreme screaming from the Tenant's unit. When she went up to investigate, she heard profanity and banging as well as music from the Tenant's door.
8. JD further testified that on May 8, 2022, she discovered through video surveillance footage that the Tenant had taken another Tenant's clothing article from the washing machine. A copy of the footage was submitted into evidence which shows the Tenant closing the washing machine doors, removing an article of clothing, looking around him and at the entry to the laundry room before putting it in his container. On May 12, 2022, the Tenant is once again seen from video surveillance footage to be taking items from the shelf in the laundry room, in the same manner.
9. JD testified that since the second N5 notice of termination was served to the Tenant, there have been thirteen further incidents of theft in the laundry room documented by the Landlord, and all of them involve the Tenant removing items that do not belong to him including clothing, laundry soap, laundry bags, laundry carts and baskets. In three instances, the thefts have been reported to the police by the victim tenants.
10. JD testified that in September 2022 when she attended the rental unit with the property manager to speak to the Tenant about this conduct and request the return of the laundry basket, the Tenant engaged in aggressive conduct, used profanity towards the Landlord's employees and slammed the door in their face. JD testified that the Landlord has also delivered to the rental unit a flyer on mental health resources, but the Tenant has not been responsive or identified any disability and/or accommodation need(s).
11. The Landlord seeks a termination of the tenancy as the residents throughout the building are afraid of this Tenant and have complained about the Tenant terrorizing them with his loud screaming and outbursts throughout the night.

Analysis

12. Based on the uncontested evidence before the Board, I am satisfied the Tenant has substantially interfered with the other tenants' reasonable enjoyment of the residential complex and has also substantially interfered with a lawful right, privilege or interest of the Landlord. I say this on the Landlord's testimony and video surveillance footage.
13. While eviction is a remedy of last resort, I find that conditional relief is appropriate where tenants acknowledge the behaviour and are willing to take steps to change that behaviour, so the same problems do not re-occur in the future. The evidence here does not support that conclusion with this Tenant; in fact, the Tenant's behaviour of continuing the conduct after the second N5 was served indicates that a conditional order will not be possible for the Tenant to abide by.
14. As such, the Landlord's request for eviction is granted.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord collected a rent deposit of \$1,198.98 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$17.67 is owing to the Tenant for the period from December 1, 2020 to January 9, 2023.
17. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
19. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 23, 2023.
2. If the unit is not vacated on or before January 23, 2023, then starting January 24, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after January 24, 2023.
4. The Tenant shall pay to the Landlord \$4,083.29, (less any amounts that have already been paid to the Landlord after the application was filed) which represents compensation for the use of the unit from September 2, 2022 to January 9, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$40.77 per day for the use of the unit starting January 10, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$4,269.29.

8. If the Tenant does not pay the Landlord the full amount owing on or before January 23, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2023 at 5.00% annually on the balance outstanding.

January 12, 2023

Date Issued

Sonia Anwar-Ali

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on July 24, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.